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OCT 22 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
J. Stuart Cumming :
Application No. 09/574,441 :
Filed: May 19, 2000 :
Attorney Docket No. 13533.4024 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed February 28, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. A one (1) month extension of time under the provisions of 37 CFR 1.136 was submitted on June 30, 2003, via certificate of mailing on June 27, 2003. Accordingly, the application became on June 28, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$465 extension of time submitted with the petition on September 29, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being forwarded to Technology Center AU 3738 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
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for Patent Examination Policy